

Message Text

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PAGE 01 SAN SA 02873 201500Z
ACTION EB-07

INFO OCT-01 ARA-10 ISO-00 CIAE-00 COME-00 DODE-00
DOTE-00 FMC-01 INR-07 NSAE-00 CG-00 DLOS-09
OES-07 L-03 AID-05 IGA-02 H-01 SS-15 TRSE-00
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R 172235Z JUN 77
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 4640
INFO AMEMBASSY GUATEMALA
AMEMBASSY MANAGUA
AMEMBASSY SAN JOSE
AMEMBASSY TEGUCIGALPA

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E.O. 11652: N/A
TAGS: ETRN, EWWT, ES
SUBJECT: GOES CONSIDERS CARGO RESERVE LAW

1. SUMMARY. EMBASSY HAS OBTAINED COPY OF DRAFT LAW PREPARED BY MINISTRY OF ECONOMY WHICH WOULD SET UP COMPLICATED SYSTEM TO RESERVE SALVADORAN IMPORT/EXPORT CARGO TO SALVADORAN AND CENTRAL AMERICAN SHIPPING FIRMS. DRAFT LAW IS OPPOSED BY LARGE SEGMENT OF PRIVATE AND SECTOR AND PASSAGE SOON IS DOUBTFUL. EFFECTS ON US FLAG SHIPPERS DIFFICULT TO ASSESS BUT COULD BE POSITIVE BECAUSE OF PROVISION ASSIGNING PORTION OF CARGO TO COUNTRY OF ORIGIN/DESTINATION OF FREIGHT. EMBASSY PLANS NO REPRESENTATION UNLESS CONTRARY INSTRUCTION RECEIVED.
2. EMBASSY HAS OBTAINED COPY OF DRAFT LAW PREPARED BY MINISTRY OF ECONOMY FOR SUBMISSION TO NATIONAL ASSEMBLY WHICH WOULD RESERVE A PERCENTAGE OF EL SALVADOR'S IMPORT/EXPORT MARITIME FREIGHT TO SALVADORAN AND CENTRAL AMERICAN SHIPPING COMPANIES. DRAFT LAW IS APPARENTLY RESUSCITATION OF PROPOSAL REJECTED BY ASSEMBLY IN 1973. IT IS OPPOSED

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PAGE 02 SAN SA 02873 201500Z

BY MOST VOCAL ELEMENTS OF PRIVATE SECTOR AND PASSAGE IN CURRENT FORM IS DOUBTFUL. ONLY ONE SALVADORAN FIRM NOW IN EXISTENCE- ARMADORA MARITIMA SALVADORENA (ARMASAL) - WOULD BENEFIT FROM CARGO RESERVE PROVISIONS. THIS FIRM REPORTEDLY HAS THREE VESSELS UNDER CHARTER SERVING TAMPA, NEW ORLEANS, HOUSTON, PORT ARTHUR, CATUCO AND ACAJUTLA.
3. FOLLOWING IS SUMMARY OF PROVISIONS FOR DRAFT WHICH AFFECT

FOREIGN SHIPPERS:

ART 1 STATES PURPOSE OF LAW AS PROMOTION OF SALVADORAN SHIPPING ENTERPRISES.

ART 2 - ESTABLISHES 80 PERCENT SALVADORAN OR CENTRAL AMERICAN OWNERSHIP REQUIREMENT FOR SHIPPING FIRM TO BE CONSIDERED "NATIONAL" AND ENJOY BENEFITS OF LAW.

ART 5 - RESERVES TO NATIONAL SHIPPING LINES 100 PERCENT OF CARGO IMPORTED BY FIRMS ENJOYING FISCAL EXEMPTIONS UNDER NATIONAL LAWS OR CENTRAL AMERICAN AGREEMENTS. (COMMENT: A LARGE NUMBER OF SALVADORAN FIRMS, INCLUDING MOST IMPORTANT MANUFACTURERS, RECEIVE TAX EXEMPTIONS UNDER VARIOUS SCHEMES.)

ART 6 - RESERVES 50 PERCENT OF SALVADORAN IMPORT/EXPORT CARGO TO NATIONAL FIRMS AND 50 PERCENT TO COUNTRY OF ORIGIN/DESTINATION OF MERCHANDISE. IF SHIPPING LINES OF COUNTRY OF ORIGIN/DESTINATION DO NOT PROVIDE SERVICE, 80 PERCENT OF CARGO IS RESERVED TO NATIONAL SHIPPING COMPANIES. 100 PERCENT OF IMPORTS OR EXPORTS OF GOES, ITS AUTONOMOUS OR SEMI-AUTONOMOUS AGENCIES AND STATE-OWNED OR MIXED ENTERPRISES IS ASSIGNED TO NATIONAL SHIPPING COMPANIES. PROVISIONS OF THIS ARTICLE ARE NOT TO AFFECT OTHER RESERVATION PROVISIONS AGREED BY GOES UNDER LOAN AGREEMENTS. (COMMENT: THIS PROVISION APPEARS TO PROTECT US ECONOMIC ASSISTANCE AGREEMENTS REQUIRING SHIPMENT ON US BOTTOMS.) PERCENTAGES ARE TO BE CALCULATED ON VALUE OF FREIGHT CHARGES, CONSIDERING SEPARATELY GENERAL, REFRIGERATED, BULK AND LIQUID CARGO. MINISTRY OF ECONOMY WILL ESTABLISH QUOTAS FOR DIFFERENT COMPANIES ON BASIS OF FREIGHT REVENUES GENERATED ON VARIOUS ROUTES.

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PAGE 03 SAN SA 02873 201500Z

ART 7 - 100 PERCENT OF CENTRAL AMERICAN INTERCOASTAL TRADE IS RESERVED TO NATIONAL SHIPPING FIRMS OR SHIPPING FIRMS OF CENTRAL AMERICAN COUNTRIES WHICH EXTEND RECIPROCAL TREATMENT TO EL SALVADOR.

ART 8- EXCEPTIONS TO PRECEEDING PROVISIONS ARE ALLOWED IN FOLLOWING CASES:

- A. FOR IMPORTS FROM OTHER MEMBERS OF CENTRAL AMERICAN COMMON MARKET;
- B. FOR IMPORTS BY FIRMS IN THEIR OWN, SPECIALLY EQUIPPED VESSELS;
- C. FOR CASES IN WHICH A NATIONAL FIRM DOES NOT HAVE REGULAR SERVICE TO PORT OF EMBARCATION, INWHICH ITS VESSELS DO NOT HAVE SUFFICIENT CAPACITY TO SERVE THE ROUTE IN QUESTION, OR IN WHICH THE NATIONAL FIRM CANNOT PROVIDE ADEQUATE SERVICE;
- D. FOR CASES IN WHICH NATIONAL FIRMS LACK SPECIAL CARGO HANDLING EQUIPMENT; AND
- E. WHEN IT CAN BE ESTABLISHED TO MINISTRY OF ECONOMY'S SATISFACTION THAT USE OF NATIONAL FIRMS WOULD INCREASE TRANSPORT COSTS.

ART 9 - MINISTRY OF ECONOMY WILL FIX FREIGHT RATES, TAKING INTO ACCOUNT RATES SET BY INTERNATIONAL CONFERENCES OR OTHERWISE IN EFFECT FOR SIMILAR ROUTES.

ART 11 - CENTRAL AMERICAN SHIPPING FIRMS WILL BE CONSIDERED "NATIONAL", OR SALVADORAN, WHEN THEY ARE ASSOCIATED WITH NATIONAL FIRMS, WHEN THEIR RESPECTIVE COUNTRIES PROVIDE RECIPROCAL TREATMENT,

AND WHEN THEY ARE REGISTERED AS NATIONAL UNDER PROVISIONS OF THIS LAW.

ART 15 - ESTABLISHES PENALTY OF 100 PERCENT OF VALUE OF FREIGHT ON MERCHANDISE SHIPPED FOR MOVING CARGO CONTRARY TO PROVISIONS OF THIS LAW.

4. EFFECT OF DRAFT LAW ON US FLAG SHIPPING IS DIFFICULT TO ASSESS BUT COULD BE PERVERSELY BENEFICIAL. IN 1976 A MINISCULE 1.3 PERCENT OF SALVADORAN TRADE MOVED ON US BOTTOMS WHILE 30.9 PERCENT OF THE COUNTRY'S TRADE WAS WITH THE US. THUS, RESERVATION OF 50 PERCENT OF CARGO TO FLAG OF COUNTRY OF ORIGIN/DESTINATION (ART 6) COULD INCREASE US SHARE. US LINES SERVING EL SALVADOR ARE DELTA, PRODENTIAL-GRADE, COORDINATED CARIBBEN TRANSPORT, SEA-LAND AND LYKES. MOST OF THESE FIRMS SERVE SALVADORAN MARKET THROUGH ROLL-ON ROLL-OFF FACILITY AT PORT OF SANTO TOMAS DE CASTILLA, GUATEMALA. LIMITED OFFICIAL USE

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PAGE 04 SAN SA 02873 201500Z

OPERATIONS THROUGH SANTO TOMAS COULD BE AFFECTED BY "ASSOCIATION" PROVISIONS OF ART 11 UNDER WHICH GUATEMALA SHIPPING LINE WOULD "ASSOCIATE" WITH ARMASAL TO CLAIM SHARE OF TRAFFIC.

5. COPY OF TEXT OF LAW BEING POUCHED.

6. IN VIEW OF MINIMAL AND POSSIBLY POSITIVE EFFECT ON US INTERESTS, POST DOES NOT PLAN TO MAKE REPRESENTATION UNLESS CONTRARY INSTRUCTION RECEIVED. LUBENSKY

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Message Attributes

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Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
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Status: NATIVE
Subject: GOES CONSIDERS CARGO RESERVE LAW
TAGS: ETRN, EWWT, ES
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